

***United States Court of Appeals
for the Second Circuit***



APPENDIX

77-1292

To be argued by
BARRY BASSIS

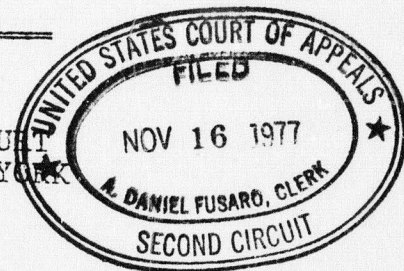
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

-----X
UNITED STATES OF AMERICA,
Plaintiff-Appellee,
-against-
GERALDO MARTINEZ,
Defendant-Appellant.
-----X

B p/s
Docket No. 77-1292

APPENDIX TO APPELLANT'S BRIEF

ON APPEAL FROM A JUDGMENT
OF THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK



MARTIN ERDMANN, ESQ.,
THE LEGAL AID SOCIETY,
Attorney for Appellant
FEDERAL DEFENDER SERVICES UNIT
509 United States Courthouse
Foley Square
New York, New York 10007
(212) 732-2971

BARRY BASSIS,
Of Counsel.

PAGINATION AS IN ORIGINAL COPY

76 CRIM. 0766

rs
265

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x
UNITED STATES OF AMERICA :

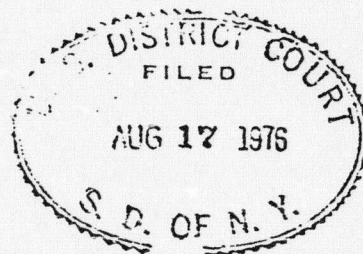
-v- :

GERALDO MARTINEZ, :

Defendant :
----- x

INDICTMENT

76 Cr.



The Grand Jury charges:

On or about the 18th day of June, 1974,
in the Southern District of New York

GERALDO MARTINEZ

the defendant , unlawfully intentionally and knowingly did
distribute and possess with intent to distribute a
Schedule II narcotic drug controlled substance, to wit,
approximately 18.34 grams of cocaine hydrochloride.

(Title 21, United States Code, Sections 812,
841(a)(1) and 841(b)(1)(A).)

COUNT TWO

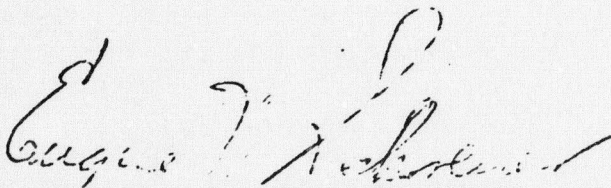
The Grand Jury further charges:

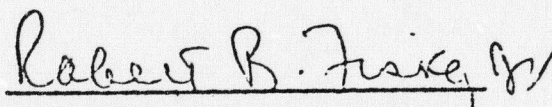
On or about the 1st day of July, 1974
in the Southern District of New York,

GERALDO MARTINEZ

the defendant , unlawfully, wilfully and knowingly did
distribute and possess with intent to distribute a
Schedule II narcotic drug controlled substance, to wit,
approximately 24.17 grams of cocaine hydrochloride.

(Title 21, United States Code, Sections 812,
841(a)(1) and 841(b)(1)(A).)


FOREMAN


ROBERT B. FISKE, JR.
United States Attorney

76 U.S. 01736

Form No. USA-335-274 (Ed. 9-25-58)

United States District Court

SOUTHERN DISTRICT OF NEW YORK

THE UNITED STATES OF AMERICA

vs.

GERALDO MARTINEZ,

Defendant.

INDICTMENT

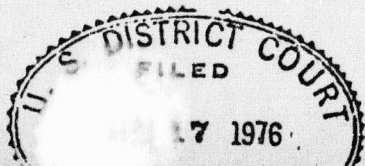
Violation of T. 21, U.S.C.,
§§812, 841(a)(1) and 841(b)
(1)(A).

ROBERT B. FISKE, JR.

United States Attorney.

A TRUE BILL

Cyrus M. Schreiner
Foreman.



JUDGE WERKER

8-17-76 Indictment Order *Julius*

Werkers J.

8-26-76 - Def't. NOT present. (atly. NOT present)
Court directs a plea of NOT guilty be
entered. Assigned Werkers J. for all
purposes. All further proceedings adjourned
to 9/2/76.

Werkers J.

DEC 15 1976

Def't + AUSA Holdstein present, referred to Magistrate to
appoint counsel

JUDGE WERKER

JAN 11 1977

Def't, AUSA Holdstein + Joseph B. Hirschfield, Esq. present
Trial date to be set in April

JUDGE WERKER

MAY 2 - 1977 Def't produced on WRIT

Def't GERALDO MARTINEZ, AUSA Lee Richards + Joseph B.
Hirschfield Esq + Jerry Pappas, Interpreter present
trial begun before

JUDGE WERKER

MAY 3 - 1977 Trial continues

MAY 4 - 1977 Jury Deliberates - GUILTY. Pre-Sentence
Sentence + WRIT adjourned to June 6 1977

JUDGE WERKER

DEFENDANT REMAINS

6/6/77-- sent. adj. to 6/15/77 at 9:30 Am. Van

~~REDACTED~~

6/15/77-- Dept. (in custody) ^(concurrent) present w/ atty. Joseph Huichfield & RUSA Lee Richards. Dept. sent. as follows: cts. 142-- 10 yrs. strips. to run concurrently w/ ex. cts. 18:4205(a) to be followed by 5 yr. S.P. on cts. 142, again ex. cts. concurrent. Dept. notified of his right to appeal within 10 days. After notice of appeal is filed, dept's. atty. Mr. Huichfield will be relieved & new counsel will be appointed by the Magistrate's office. Writ satisfied.

Walter J. [Signature]

ars

UNITED STATES OF AMERICA

vs.

76 Cr. 766

GERALDO MARTINEZ.

New York, May 4, 1977;
9.30 o'clock a.m.

(Trial resumed.)

--

(Jury present.)

THE COURT: Mr. Foreman and ladies and gentlemen of the jury:

Now that the evidence is all in and the counsel have summed up their respective contentions the time has come for you and me to perform our respective functions in the administration of justice in this case.

As I stated to you at the outset it is my duty to instruct you as to the principles of law to be followed, and it is your duty to accept those instructions as they are given by me and apply them to the evidence in this case.

The indictment against the defendant is not evidence and it does not carry with it any presumption of guilt. It is merely a means by which the defendant and the jury are informed of the nature of the charges or

1 ars

2 accusations, and a means of bringing the defendan to
3 trial.

4 The defendant in this case has pleaded not
5 guilty and by that plea has put into issue each of the
6 elements of the charge against him.

7 You may not give any weight whatever to the
8 fact that an indictment has been returned against the
9 defendant. It is your duty to determine the facts as
10 derived from your consideration of the evidence in this
11 case and then apply the principles of law to decide whether
12 the defendant on trial before you is guilty or not guilty
13 of any of the charges made against him.

14 You are the sole and exclusive judges of the
15 facts. If your recollection of the evidence differs
16 in any way, from the recollection of counsel or the Court,
17 your recollection controls and should be relied upon
18 by you. Your judgment as to what the facts are controls.

19 The Government and the defendant are equally
20 entitled to justice in this court. The fact that this
21 prosecution is brought in the name of the United States
22 of America does not entitled the Government to any greater
23 consideration than any other litigant would get. But,
24 by the same token, it is entitled to no less consideration.

25 The issued in this case must be decided on the

2 evidence and on the law. In that regard you are
3 instructed that statements and arguments of counsel are
4 not evidence unless made as an admission or a stipulation
5 of fact.

6 Before I turn to the indictment in the case
7 and the charges that are made against the defendant here,
8 let me first give you a few basic principles that should
9 govern you in your deliberations.

10 First of all, you should approach your duties
11 with an attitude of complete fairness and impartiality,
12 one in which you reach a decision solely on the basis of
13 the evidence and in accordance with the legal instructions
14 that I am about to give you.

15 Each side is entitled to the same fairness that
16 you would want if you were a party in a lawsuit. Under your
17 oath as jurors you should not and cannot allow sympathy
18 for the defendant or consideration of punishment he might
19 receive should he be found guilty, to enter into your
20 deliberations or to affect or influence your judgment in
21 any way.

22 The duty of imposing sentence in the event of
23 conviction would rest exclusively upon the Court and upon
24 the Court's own conscience.

25 During the trial I have been called upon to

1 ars

2 make rulings from time to time. I have sustained some
3 objections and I have overruled others. On one or another
4 occasion I might have said that the testimony should be
5 stricken and advised you to disregard it. It is
6 important that in the performance of your duties that you
7 limit yourself to the consideration of the evidence, to
8 that which was actually received in the case and not give
9 any consideration to any evidence which was stricken.

10 It is equally important that you do not draw
11 inferences against either side because of any objections
12 that counsel may have made during the trial, or any argument
13 that counsel may have made or the fact that it may have
14 been necessary from time to time to engage in conferences
15 at the side bar or to exclude you from the courtroom
16 altogether.

17 Under our system of justice in this country,
18 it is the function and duty of counsel to object to anything
19 that they think is legally improper and they would be
20 remiss in their duties if they failed to do so.

21 But it is my function and duty to rule on these
22 questions of law and I would be remiss in my duty if I
23 failed to make such rulings, even though sometimes they
24 may not have been to the liking of counsel for either side.

25 If during the course of the trial from any

1 ruling or questions or facial expressions or some of the
2 questions that I put to the witnesses you got the impression
3 that I personally have any views on the credibility of
4 any of the witnesses, or on the weight to be given to
5 their testimony or to the proof or the merits of the case,
6 please disregard it. It is not my intention to imply
7 or express any opinion or any view to you with respect to
8 the facts in the case or the merits or the credibility
9 of any witness. That is your sole and exclusive function.

11 Any questions which I may have put to witnesses
12 during the course of the trial have been put to those
13 witnesses in an attempt to clarify issues which you might
14 ultimately decide. It was not to give you the impression
15 that I was siding one way or the other.

16 Whatever my feelings may be in this matter
17 are completely immaterial and irrelevant.

18 Let me give you a few more basic principles of
19 general application.

20 As I have told you, no inference is to be
21 drawn from the indictment or from the fact that an indict-
22 ment has been filed. The grand jury was not asked to
23 determine whether the defendant was guilty or not guilty
24 of the charges contained in the indictment. That is your
25 function as jurors and your function alone.

Under our law every defendant, and that is true of the defendant in this case, is presumed to be innocent. That presumption of innocence is in the defendant's favor throughout the entire trial and extends even into your deliberations in the jury room.

It is overcome only if, as and when you determine that his guilty has been established beyond a reasonable doubt by the credible evidence in the case.

The burden is upon the Government to establish the defendant's guilt beyond a reasonable doubt and that burden applies to every element of each crime charged against the defendant. That burden of proof never shifts to the defendant, it always remains with the Government right down to the end of the trial.

The first count of this two-count indictment charges that on or about June 18, 1974 in the Southern District of New York, the defendant Geraldo Martinez unlawfully knowingly intentionally did distribute and possess with intent to distribute a narcotic drug controlled substance, that is 18.34 grams of cocaine hydrochloride.

The second count charges that again on or about July 1, 1974 in the Southern District of New York the defendant Geraldo Martinez unlawfully knowingly and

ars

intentionally did distribute and possess with intent to distribute a narcotic drug controlled substance, that is 24.17 grams of cocaine hydrochloride.

Before you can find the defendant guilty of the crimes charged in these two counts you must be convinced that the Government has proved the following elements with respect to each count beyond a reasonable doubt:

First, that on or about the date set forth in each of the Counts 1 and 2, in the Southern District of New York, Geraldo Martinez either distributed or possessed with intent to distribute a narcotic drug controlled substance.

Second, that he did so unlawfully, intentionally and knowingly; and,

Third, that the narcotic drug controlled substance involved was cocaine hydrochloride.

I instruct you as a matyer of law that cocaine hydrochloride is a narcotic drug controlled substance. However, you must still find beyond a reasonable doubt that the substance in Government's Exhibits 1 and 2 is cocaine hydrochloride. In that regard, you have heard the testimony from the chemist employed by the Drug Enforcement Agenc that Government's Exhibits 1 and 2 contain cocaine hydrochloride.

I further instruct you that the places where the alleged crimes allegedly took place are in the Southern District of New York.

Now, the first fact which you must find beyond a reasonable doubt in order to convict the defendant of the substantive crimes charged in the indictment is that he distributed or possessed with intent to distribute a narcotic drug controlled substance. I have already instructed you on the phrase "a narcotic drug controlled substance".

Now, I would like to focus on the meaning of the terms distribute and possess with intent to distribute as they are used in the statute.

According to the statute that term distribute means actual constructive or attempted transfer of a controlled substance. A transfer in this context could be a sale or a giving away of a controlled substance for money or in exchange for something other than money.

As to the phrase "possess with intent to distribute" the word possess has its common, every-day meaning. That is, to have something within's one control either physically or constructively. Physical custody obviously meets this requirement.

In addition, one who does not have actual,

physical custody is said to possess constructively if he exercises dominion or control over an object.

Such control may be demonstrated by the existence of a working relationship between the person having such control and the person with actual, physical custody, or by the ability of such person to dictate the movement or disposition of the object.

The word intent refers to a person's state of mind, so the term possess with intent to distribute can be fairly stated to mean to control an object with the state of mind or purpose of transferring or delivering that item.

As to the second element, the term unlawfully, wilfully and knowingly means that you must be satisfied beyond a reasonable doubt that the defendant knew what he was doing and that he did it deliberately and voluntarily, as opposed to mistakenly or accidentally or as the result of some coercion.

Of course, it is not necessary that the defendant knew he was violating any particular law. Rather it is sufficient if you are convinced beyond a reasonable doubt that he was aware of the general unlawful nature of his act.

Knowledge and intent exist in the mind. Since

it is not possible to look into a man's mind to see what went on, the only way you have for arriving at a decision on these questions is for you to take into consideration all the facts and circumstances shown by the evidence including the exhibits, and to determine from all such facts and circumstances whether the requisite knowledge and intent were present at the time in question.

Direct proof is unnecessary. Knowledge and intent may be inferred from all the surrounding circumstances.

You have heard evidence of statements made by the defendant on two different occasions concerning the sale of cocaine.

Now, with respect to Count 1, it is not necessary for the Government to show that the defendant physically committed the crime itself. Section 2 of Title 18, United States Code, provides that a person who aids and abets another to commit an offense is just as guilty of that offense as if he committed it himself.

It is a crime not only to commit the illegal act to which I have just referred, but also to cause a crime to be committed or to aid or abet or procure or induce another person to commit such a crime. Section 2 provides as follows:

ars

"Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal."

"B. Whoever wilfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principle."

To determine whether the defendant aided and abetted the commission of an offense, you must ask yourselves these question:

Did he associate himself with the venture?
Did he participate in it as something he wished to bring about? Did he seek by his actions to make it succeed?

If he did, then he is an aider and abettor.

The admissions of the defendant or the incriminating statements made or acts done by the defendant outside of court are among the most effectual proofs in the law and constitute the strongest evidence against the party making it that can be given of the facts stated in the admissions.

Accordingly, you are entitled to give great weight to the defendant's admissions in this case.

There has been testimony with respect to the

1 ars

2 use of a person sometimes referred to as an informant
3 or an informer. The services of an informant are
4 availed of by Government agents sometimes to obtain intro-
5 ductions to persons suspected of violating the law.
6 There are certain types of crimes where, without the use
7 of informants, detection would be extremely difficult.
8 Frequently the use of informants is necessary to get leads
9 or introductions to persons allegedly engaged in illegal
10 activity or otherwise to aid enforcement officers.

11 The law from time immemorial has permitted the
12 use of informants provided the rights of other defendants
13 are not violated.

14 You should neither discuss nor consider whether
15 or not you approve the use of informants in an effort to
16 detect a violation of the law. This is not to enter into
17 your deliberations.

18 Now, if there is a potential witness who may
19 be called by the Government or by the defendant and neither
20 side calls him, then you may infer that the testimony of
21 the absent witness may have been unfavorable either to
22 the Government or to the defendant or to both of them.
23 But, on the other hand, it is equally within your province
24 to draw no inference at all from the failure of either
25 side to call a witness.

1 ars
2 You should bear in mind, however, that there
3 is no duty upon either side to call a witness whose
4 testimony would be merely cumulative of testimony already
5 in evidence.

6 The law permits a defendant at his own request
7 to testify on his own behalf. The testimony of the
8 defendant is before you. You must determine how credible
9 it is. The deep personal interest which every defendant
10 has in the result of his case should be considered in
11 determining the credibility of his testimony. You are
12 instructed that interest creates a motive for false testi-
13 mony; that the greater the interest the stronger is the
14 temptation and that the interest of a defendant is of a
15 character possessed by no other witness and is
16 therefore, a matter which may seriously affect the credence
17 that should be given to his testimony.

18 However, I want to say this to you with equal
19 force it by no means follows that simply because a person
20 has a vital interest in the end result he is not capable
21 of telling a truthful and straightforward story. It is
22 for you to decide to what extent, if at all, the defendant's
23 interest has affected or colored his testimony.

24 Evidence has been introduced by which the
25 defendant intends to establish an alibi which amounts to a

contention that the defendant was not present at the time when or at the place where he is alleged to have committed the offense charged in the indictment.

If after consideration of all the evidence in the case you have a reasonable doubt as to whether the defendant was present at the time and place the alleged offense was committed, you must acquit him.

You must also bear in mind, however, that the law never imposes upon a defendant in a criminal case the burden or duty of calling any witness or producing any evidence.

I have mentioned the term beyond a reasonable doubt. What does that mean? As the words imply, it is such a doubt as will be entertained by a reasonable man after all the evidence in the case is carefully analyzed and compared and weighed.

A reasonable doubt may arise not only from the evidence produced but also from the lack of evidence. Since the burden is upon the Government to prove the defendant's guilt beyond a reasonable doubt of every essential element of each crime charged, a defendant has the right to rely upon a failure of the prosecution to establish such proof.

Absolute or mathematical certainty is not

required but there must be such certainty as satisfies your reason and judgment and such that you feel conscientiously bound to act upon it.

It is not a fanciful doubt or whimsical or a capricious doubt for anything relating to human affairs or depending upon testimony is open to some possible or imaginary doubt.

A reasonable doubt is such a doubt as would cause a prudent person to hesitate before acting in matters of importance to himself.

In other words, if the evidence warrants in your judgment the conclusion that the defendant is guilty so as to exclude every other reasonable conclusion, you should declare him guilty.

On the other hand, if on all the evidence you have a reasonable doubt as to the guilt of the defendant, you must find him not guilty.

Whenever in these instructions I have told you that certain elements must be established before there can be a conviction of the defendant on a certain count, I mean that this element must be established according to the standards of proof I have just explained, that is, proof beyond a reasonable doubt. If I haven't repeated that standard of proof each time, bear in mind that it applies

1 ars

103

2 every time I have spoken to you about the elements of
3 the offense or a finding that you are entitled to make.

4 So with respect to all such elements or findings
5 necessary to convict on either count, I am instructing you
6 that you may not conclude that such elements or such a
7 finding is established simply because you may think the
8 weight of the evidence tips somewhat in favor of the Govern-
9 ment. The standard of proof is proof beyond a reasonable
10 doubt.

11 In performing your function you are performing
12 one of the most important things you have to do and that
13 is to pass upon the credibility, that is the believability,
14 of the various witnesses who have appeared before you.
15 In passing upon the credibility of each of the witnesses
16 there are certain considerations you may well have in
17 mind.

18 One of these is the appearance which the witness
19 made when he was on the stand. You should try to size him
20 up. Did he appear to be telling the truth? Did he appear
21 to be honest? Did he appear to be intelligent? Did he
22 appear to be a person who could have observed accurately
23 what he is telling you about? Who would be likely to
24 have remembered accurately and was capable of reporting
25 it to you accurately?

1 ars

2 Another question for you to have in mind with
3 regard to each witness is whether the story he has told you
4 is plausible. Does it ring true or are there incon-
5 sistencies in it?

6 How does it fit in with the other evidence in
7 the case which you do believe and other facts you find to
8 have existed? Does it jibe with that evidence and those
9 facts?

10 In short, does the testimony which was given
11 by the particular witness whose credibility you are
12 considering seem to you to be plausible.

13 Another question you may well ask yourselves in
14 passing on the credibility of any witness is whether that
15 witness has any bias or interest in the outcome of the
16 case and, if so, whether he has permitted that bias or
17 interest to color his testimony.

18 It, of course, does not follow simply from the
19 fact that the witness has a bias or interest in the outcome
20 of the case that his testimony is to be disbelieved.

21 In connection with this credibility, evidence
22 that a witness has been convicted in the past of certain
23 crimes may also be considered by you in determining that
24 witness' credibility. By this I mean that you may con-
25 sider the prior convictions in determining that witness'

ars

worthiness of belief.

The weight of the evidence is not necessarily determined by the number of witnesses testifying on either side. You should consider all the facts and circumstances in evidence to determine which of the witnesses are worthy of credence and you may find the testimony of a smaller number of witnesses on one side more credible than the testimony of a great many witnesses on the other side.

In considering the testimony of Government witnesses you should bear in mind that their testimony is entitled to no greater significance simply because they are employees of the Government. Their testimony should be subject to the same considerations you apply to any witness regardless of their employment by the Government.

In weighing the evidence before you you should bear in mind that evidence is of two types, direct evidence and circumstantial evidence.

Evidence is considered direct when it is introduced by a witness who testifies to what he saw, heard or observed; what he knows of his own knowledge or something which comes to him by virtue of his senses.

Circumstantial evidence is evidence of facts and circumstances which one may infer which reasonably

2 follow from the common experience of mankind. Circum-
3 stantial evidence is that evidence which tends to prove a
4 disputed fact by proof of other facts which have a logical
5 tendency to lead the mind to a conclusion that those facts
6 exist which are sought to be established.

7 Circumstantial evidence, if believed, is of
8 no less value than direct evidence, for in either case
9 you must be convinced beyond a reasonable doubt of the
10 guilt of the defendant. Let's take one simple example,
11 one which is often used in this Court House to illustrate
12 what is meant by circumstantial evidence.

13 We will assume that when you entered the Court
14 House this morning the sun was shining brightly outside
15 and it was a clear day. It was not raining, the sky was
16 clear.

17 Now, assume that in the courtroom the blinds are
18 drawn and the drapes are drawn so that you cannot look outside.

19 Assume you are sitting there in the jury box
20 and despite the fact that it was dry when you entered the
21 building, somebody walks in carrying an umbrella which is
22 dripping wet, followed a short while by a man wearing a
23 wet raincoat.

24 Now, on the assumption that you cannot look out
25 of the courtroom and see whether it is raining or not, if

1 ars

2 you were asked is it raining you could not say that you
3 know it directly from your own observation but certainly
4 upon the existence of the facts given, even though when
5 you entered the building it was not raining outside, it
6 would be reasonable and logical for you to conclude it was
7 now raining outside. That is about all there is to
8 circumstantial evidence.

9 You infer on the basis of reason and experience
10 from the established facts the existence of some further
11 facts.

12 There are times when different inferences may
13 be drawn from facts whether they are proved by direct or
14 circumstantial evidence. The Government asked you to
15 draw one set of inferences, while the defendant asks you
16 to draw others. It is for you to decide and for you alone
17 what inferences you will draw. But remember, you are
18 to decide the case upon the evidence and the evidence
19 alone, and you must not be influenced by any assumptions,
20 conjecture, surmise or any inference not warranted by the
21 facts unless proven to your satisfaction.

22 In conclusion, ladies and gentlemen, the purpose
23 of your deliberations is to exchange views with your fellow
24 jurors, to discuss and consider the evidence, to listen to
25 each other's arguments and to present your own views and

to reach a unanimous verdict based solely and only on the evidence, if you can do so without violence to your own individual conscience and judgment.

Each of you must decide the case for yourself but do so only after an impartial consideration of the evidence in the case with your fellow jurors.

If you fail to find beyond a reasonable doubt that the law has been violated you should not hesitate for any reason to find a verdict of acquittal.

But, on the other hand, if you should find that the law has been violated as charged, you should not hesitate because of sympathy or for any other reason to render a verdict of guilty as a clear warning that crimes of this character may not committed with impunity. The public is entitled to be assured of this.

Do not hesitate to reexamine your views and change your opinion when, after discussion, it appears to be in error. But after carefully weighing all the evidence in the case and considering the arguments of your fellow jurors you hold a conscientious view which differs from the others, you are not to yield your view simply because you are outnumbered. Your final vote must reflect your objective and deeply thought out determination of the issues.

1 ars
2 If in the course of your deliberations you
3 need to examine any of the exhibits or desire to have any
4 portion of the testimony read back, you may send a note to
5 the Court asking for whatever will clear the questions up.
6 There is an admonition I must give you, when you do have a
7 question, you should be very specific about that question.
8 If you are specific we can meet your request more quickly.

9 In communications with the Court I should
10 admonish you never to indicate how your vote may then be
11 divided. The reason for that is simple, your deliber-
12 ations are secret and it would be a breach of that secrecy
13 to communicate at any time how the jury has voted, except
14 to announce that you have reached a unanimous verdict.

15 In the event you members cannot agree
16 unanimously upon a averdict after due deliberations, you
17 do not indicate to anyone, including the Court, how the
18 jury has voted or why you cannot agree unanimously upon a
19 verdict. Merely indicate that the jury is deadlocked.

20 Mr. Foreman, if I should ask you any question
21 in the course of your deliberations, pause before you
22 answer and carefully consider my question. If the answer
23 calls for yes or no, give only that reply to my question
24 and do not volunteer any additional statements. In any
25 event, do not say more than necessary to inform me of your

1 ars

191

2 answer.

3 When you indicate that you have reached a
4 verdict, do not indicate what your verdict is. You will
5 be asked to state that orally through your foreman in open
6 court.

7 I will conclude by simply saying your oath sums
8 up your duty which is without fear or favor to anyone, you
9 will well and truly try the issues between the defendant
10 and the Government of the United States, based solely upon
11 the evidence which has been introduced and the Court's
12 instructions as to the law.

13 Remember, a separate crime or offense is
14 charged against the defendant in each count of the indict-
15 ment. Each offense and the evidence pertaining to it
16 should be considered separately. The fact that you may
17 find the defendant guilty or not guilty of one of the
18 offenses charged should not control your verdict as to the
19 other offense charged against the defendant.

20 You must bring in a separate verdict with
21 respect to each count. Your verdict with respect to each
22 count, whether it be guilty or not guilty, must be
23 unanimous.

24 This case is of importance to the Government
25 and it is important to the defendant. Give it your faith-

1 ars

192

2 ful consideration.

3 Gentlemen, if you will approach the side bar.

4 (At the side bar.)

5 MR. HIRSCHFIELD: Your Honor, the exceptions are
6 as I indicated yesterday.

7 THE COURT: Any other?

8 MR. HIRSCHFIELD: The only thing, your Honor,
9 is that it appears to me that one charge which you indicated
10 you were going to make yesterday has not been made clearly
11 and that is the fact that on the defendant's testimony,
12 evidence of the commission of a crime by the defendant
13 cannot be used as any evidence he committed the crime with
14 which he is charged today.

15 MR. RICHARDS: Your Honor, I would only note
16 that would apply not only to the defendant but to any other
17 witness including the informant.

18 MR. HIRSCHFIELD: It only applies to the
19 defendant, that is not credibility.

20 MR. RICHARDS: The charge that the conviction
21 goes to credibility alone would apply to both.

22 MR. HIRSCHFIELD: I don't know if that was
23 sufficiently spelled out, your Honor.

24 THE COURT: All right.

25 MR. RICHARDS: The Government has no objection

1
2
3
4
5
6
7
8
9

ars

193

to the charge nor to that addition.

THE COURT: All right.

(In open court.)

THE COURT: I will additionally instruct you
that the fact that a person has been convicted of a crime
previously goes only to the question of credibility.
It is not evidence with respect to whether or not he has
committed the crimes charged in the indictment.

Form USA#33s-532 - COMPLAINT - DISTRIB. POSS. NARC. DRUG
Rev. 5-27-72

Approved:

Assistant United States Attorney

Before:

HONORABLE
United States Magistrate,
Southern District of New York.

UNITED STATES OF AMERICA,

-v-

GERALDO MARTINEZ

Defendant

COMPLAINT

Violation of
21 U.S.C. §§ 81,
841(a)(1) and
841(b)(1)(A).

SOUTHERN DISTRICT OF NEW YORK, ss:

ARTHUR ROSE, being duly sworn,
deposes and says that he is a Special Agent with the
Drug Enforcement Administration

and charges as follows:

That on or about the 1st day of July, 1974
in the Southern District of New York,

GERALDO MARTINEZ

the defendant , unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately 26.17 grams of cocaine hydrochloride in violation of Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).

The bases for deponent's knowledge and for the foregoing charge are, in part, as follows:

1. That on or about July 1, 1971, a Special Agent of the Drug Enforcement Administration, operating in an undercover capacity, purchased the aforesaid cocaine from the defendant for \$200.

2. Subsequent chemical analysis had shown that the substance purchased was cocaine hydrochloride.

WHEREFORE, deponent prays that a warrant may issue for the apprehension of the above named defendant and that may be arrested and imprisoned, or bailed, as the case may be.

Arthur L Rose

ARTHUR ROSE

Sworn to before me this
9th day of April, 1975

United States District Court

FOR THE

Southern District of New York

Magistrate's Docket No. 75Case No. 546

UNITED STATES OF AMERICA

v

GERALDO MARTINEZ

WARRANT OF ARREST

To any duly authorized federal officer.

You are hereby commanded to arrest GERALDO MARTINEZ, and bring him
here insert name of defendant or description
forthwith before the nearest available United States Magistrate to answer to a complaint charging him
with distribution, and possession with the intent to distribute, cocaine
here describe offense charged in complaint

in violation of U.S.C. Title, 21, Section s 312, 841(a)(1) and 841 (b)(1)(A)

Date April 9, 19 75.

* Here insert designation of officer to whom warrant is issued.

RETURN Southern District of New York

Received _____, 19 _____ at _____, and executed by arrest of _____

at _____ on _____, 19 _____

Name.

Title.

Date

District of

, 19

By _____

, Deputy

REPORT OF INVESTIGATION

PAGE 1 OF 2

FILE TITLE MARTINEZ, Geraldo		IDENTIFIER DA-02	FILE NUMBER CI-74-0372
☐ ACTIVE ☒ CLOSED ☐ REQUESTED ACTION COMPLETED ☐ ACTION REQUESTED FROM:		PROGRAM CODE	
BY AT S/A Keith A. Leoni Chicago, Illinois DATE May 16, 1975		OTHER OFFICERS Special Agents: Christopher C. Macias Charles L. Hardini Thomas H. Chown	
		CROSS FILE ☐	RELATED FILES

REPORT RE:

Arrest of DEA Fugitive Geraldo MARTINEZ

SYNOPSIS:

A Federal Bench Warrant was issued in New York, New York, for Geraldo MARTINEZ, charging violation of Sections 21 U.S.C. 841 (a)(1), 841 (b)(1)(A) and 812, regarding this case file CI-74-0372. MARTINEZ was arrested by Region #7 Special Agents on April 28, 1975 at Chicago, Illinois.

DETAILS:

- Reference is made to DEA-6 dated April 15, 1975, by Special Agent Arthur I. Rose, at New York, New York, concerning a request for assistance in arresting Drug Enforcement Administration fugitive Geraldo MARTINEZ. Further reference is made to all prior correspondence concerning this investigation.
- On April 9, 1975, a Federal Bench Warrant was issued by United States Magistrate C. J. Hartmstine of the Southern District of New York for the arrest of Geraldo MARTINEZ, for violation of Federal Statutes 21 U.S.C. 812, 841 (a)(1) and 841 (b)(1)(A).
- On April 11, 1975, Special Agent Arthur I. Rose of the New York Regional Office contacted Special Agent Charles L. Hardini of the Chicago Regional Office, concerning the location of MARTINEZ. Agent Hardini subsequently requested the assistance of the Chicago Police Department Intelligence Officer Bernard Brown in locating MARTINEZ.
- On April 28, 1975, Special Agent Keith A. Leoni was contacted by Officer Brown, who stated that MARTINEZ could be located at 477 South Albany, Chicago, Illinois. Officer Brown stated that MARTINEZ has been arrested on numerous occasions and had given the Albany Street address as his residence.

REGION (2)	SIGNATURE (Agent) <i>Keith A. Leoni</i>	
DISTRICT	Keith A. Leoni, Special Agent	
OTHER Intelligence	<i>Frank Cruz</i> Frank Cruz, Group Supervisor	DATE 5/16

DEA Form -6
(Aug. 1973)

OFFICIAL USE ONLY

Drug Enforcement Administration
Department of Justice

COPY 5

This report is the property of the Drug Enforcement Administration.
Neither it nor its contents may be disseminated outside the agency to which loaned.

6 1975

REPORT OF INVESTIGATION

(Continuation)

DATE

May 16, 1975

PAGE 2 OF 2

FILE TITLE

MARTINEZ, Ceraldo

IDENTIFIER

DA4-C2

FILE NUMBER

CI-74-0372

PROGRAM CODE

5. On April 28, 1975, at about 5:00 p.m., Special Agents Christopher C. Macias, Charles L. Nardini and Thomas H. Chown traveled to 744 South Albany, Chicago, Illinois, and placed MARTINEZ under arrest. MARTINEZ was advised of the charges against him and of his Constitutional Rights, via DEA-13A, by Agent Leonl, as witnessed by Agent Nardini. MARTINEZ was transported to the DEA Chicago Regional Office for processing by Agents Nardini and Leonl. Subsequent to the processing of MARTINEZ, the defendant was transferred to the Chicago Police Department lockup at 1121 South State Street, Chicago, Illinois, via a Chicago Police Department vehicle.

6. On April 29, 1975, at about 1:00 p.m., MARTINEZ appeared before United States Magistrate Carl B. Sussman. MARTINEZ' attorney failed to appear, and at that time bond was set for MARTINEZ at \$4,500.00 Secured. U.S. Magistrate Sussman set a probable cause hearing for removal to New York City for May 14, 1975.

7. On May 14, 1975, Ceraldo MARTINEZ appeared before U.S. Magistrate Carl B. Sussman. At that time, Magistrate Sussman ruled that sufficient probable cause was present for the removal for MARTINEZ to New York City for prosecution. MARTINEZ was placed in the custody of the U. S. Marshal, pending his removal to New York. This investigation is considered closed in Region #7, pending further inquiries.

DESCRIPTION OF SUBJECT:

1. Ceraldo MARTINEZ is described as a male Cuban, 42 years old, born on March 25, 1932, at Cuba. MARTINEZ is 5'8" tall, weighs 165 pounds, with black hair and brown eyes. MARTINEZ is further identified by Social Security number 050-30-0936, F.B.I. number 159 526 B, Chicago Police Department IR number 409283 and Illinois Driver's License number M635-2923-2149. At the time of his arrest, MARTINEZ resided at 744 S. Albany, Chicago, Illinois.

ENCLOSURES: DEA 202, Chicago Police Department Criminal History File, photographs of defendant, and DEA 210. Fingerprint cards have been forwarded to the New York Regional Office for their files. Including the above mentioned forms.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

MAILED TO: Southern District of New York

UNITED STATES OF AMERICA

APPEARANCE BOND FOR

NO.

75M391

Geraldo Martinez

I, THE UNDERSIGNED, ACKNOWLEDGE THAT I AM BOUND TO PAY TO THE UNITED STATES OF AMERICA THE SUM OF Five Thousand DOLLARS (\$ 5,000.00) ^{WILL DEPOSIT OR BEFORE TUES., MAY 6, 1975, 11:10:30} AND HAVE DEPOSITED TEN PERCENT OF THAT AMOUNT WITH THE CLERK OF THE COURT. Receipt # 180585

THE CONDITIONS OF THIS BOND ARE THAT I WILL APPEAR BEFORE THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS AT CHICAGO, ILLINOIS, AND AT SUCH OTHER PLACES AS I MAY BE REQUIRED TO APPEAR, IN ACCORDANCE WITH ANY AND ALL ORDERS AND DIRECTIONS RELATING TO MY APPEARANCE IN THE ABOVE-ENTITLED MATTER AS MAY BE GIVEN OR ISSUED BY A MAGISTRATE OR JUDGE OF THE UNITED STATES DISTRICT COURT TO WHICH I MAY BE REMOVED OR THE CAUSE TRANSFERRED; I AM NOT TO DEPART THE NORTHERN DISTRICT OF ILLINOIS, OR THE JURISDICTION OF ANY OTHER UNITED STATES DISTRICT COURT TO WHICH I MAY BE REMOVED OR THE CAUSE TRANSFERRED AFTER I HAVE APPEARED IN SUCH OTHER DISTRICT PURSUANT TO THE TERMS OF THIS BOND, EXCEPT IN ACCORDANCE WITH SUCH ORDERS OR WARRANTS AS MAY BE ISSUED BY THE MAGISTRATE OR THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS OR THE UNITED STATES DISTRICT COURT FOR SUCH OTHER DISTRICT; THAT I AM TO ABIDE BY ANY JUDGEMENT ENTERED IN SUCH MATTER BY SURRENDERING MYSELF TO SERVE ANY SENTENCE IMPOSED AND OBEYING ANY ORDER OR DIRECTION IN CONNECTION WITH SUCH JUDGEMENT AS THE COURT IMPOSING IT MAY PRESCRIBE.

I APPEAR AS ORDERED AND OTHERWISE OBEY AND PERFORM THE FOREGOING CONDITIONS OF THIS BOND, THEN THIS BOND IS TO BE VOID, BUT IF I FAIL TO OBEY OR PERFORM ANY OF THESE CONDITIONS, PAYMENT OF THE AMOUNT OF THIS BOND SHALL BE DUE FORTHWITH. FORFEITURE OF THIS BOND FOR ANY BREACH OF ITS CONDITIONS MAY BE DECLARED BY ANY UNITED STATES DISTRICT COURT HAVING COGNIZANCE OF THE ABOVE-ENTITLED MATTER AT THE TIME OF SUCH BREACH AND IF THE BOND IS FORFEITED AND IF THE FORFEITURE IS NOT SET ASIDE OR REMITTED, JUDGEMENT MAY BE ENTERED UPON MOTION IN SUCH UNITED STATES DISTRICT COURT AGAINST ME FOR THE AMOUNT ABOVE STATED, TOGETHER WITH INTEREST AND COSTS, AND EXECUTION MAY BE ISSUED AND PAYMENT SECURED AS PROVIDED BY THE FEDERAL RULES OF CRIMINAL PROCEDURE AND BY OTHER LAWS OF THE UNITED STATES.

I AGREE AND UNDERSTAND THAT THIS IS A CONTINUING BOND WHICH SHALL CONTINUE IN FULL FORCE AND EFFECT UNTIL SUCH TIME AS I AM DULY EXONERATED.

THIS BOND IS SIGNED ON THIS 2nd DAY OF May AT CHICAGO, ILLINOIS.

Geraldo Martinez
Signature of Defendant

Signed and Acknowledged before me this 2nd day of May, 1975

Calvin S. Surman
Magistrate

Deputy Clerk

NAME AND ADDRESS OF DEFENDANT (PLEASE PRINT)

(Name)

(Address)

(Phone)

NAME AND ADDRESS OF INDIVIDUAL WHO CAN CONTACT DEFENDANT (PLEASE PRINT)

(Name)

(Address)

(Phone)

¹For bonds on own recognizance, line our phrase beginning "and have deposited...."

UNITED STATES MAGISTRATE
NORTHERN DISTRICT OF ILLINOIS

75M391

RECORD OF PROCEEDINGS IN CRIMINAL CASES

BEFORE CARL B. SUSSMAN
(Name of magistrate)

CHICAGO, ILLINOIS
(Address)

MAGISTRATE'S
DOCKET NO. CASE No. 75M391
THE UNITED STATES
VS.

GERALDO MARTINEZ

Affidavit
Complaint filed on April 29, 1975, by Keith Leoni
Official title SA/DEA, charging violation of
United States Code, Title 21, Section 841(a), on
19, at New York in the
division of the Southern district of New York
as follows: did distribute and possess ~~with intent to distribute~~
with intent to distribute cocaine.

(Here insert brief summary of facts constituting offense charged)

NEW YORK WARRANT
WARRANTS OR SUMMONS ISSUED:

Date April 2, 1975 Warrant/Summons for Geraldo Martinez
to (name and title of officer) Any duly authorized federal officer.
Substance of return Executed by the arrest of Geraldo Martinez on April 29, 1975
at Chicago, Ill.

Date Warrant/Summons for
to (name and title of officer)
Substance of return

PLAINTS ON FIRST PRESENTATION OF ACCUSED TO MAGISTRATE:

Date April 29, 1975 Arrested by Keith Leoni
SA/DEA= on warrant of U.S. Magistrate
(Name of issuing officer)
without warrant.

Appearances for United States R. Semmer
for accused C. Nixon(FDB), 29 S. LaSalle St., Chicago, Ill. 60603
Proceedings taken April 29, 1975: Defendant informed of affidavit and rights(FRCrP-5c)

(Here insert with dates, when appropriate, a serial account of essential steps taken at hearing such as "complaint prepared,"
Preliminary examination continued to May 1, 1975 at 10:30 A.M. May 1, 1975: Bond
If arrest is without warrant: "defendant informed of complaint and right to retain counsel and preliminary hearing": "preliminary examination waived,"
hearing continued to May 2, 1975 at 10:30 A.M. Set for hearing on May 6, 1975 at 1
If that is the fact; any adjournments taken, etc.
10:30 A.M. May 6, 1975: Set for hearing on May 14, 1975 at 9:39 A.M. May 14, 1975:
Hearing held. Reel 53; Side II; Witness(Agent A. Rose) Sworn- 0049; Government-
0050; Dft. Cress - 0078; Argument - 0186. Defendant found to be the same individua
named in the complaint. Defendant ordered removed to ~~Southern District~~ Southern District
of New York at New York City. Defendant ordered to present himself to the U.S.
Marshal for the Southern District of New York at 12:00 noon on or before May 29,
1975. Order entered May 21, 1975.

Outcome Defendant held to U.S. District Court for removal to U.S. Dist. Ct. for
the Southern District of New York at N.Y.C.

Bail fixed April 29, 1975 Amount, \$20,000 10% Bond XXXXXXXXXXXXXXXXXXXXXXXX
deposited XXXXXXXX 5/2/75 - Bond modified to XXXXX \$5,000.00 secured 10%
XXXXXX Dft. released from custody on condition XXXXX that deposit be made on or before XXXXX May 6, 1975 at 10:30 A.M.
XXXXXX May 6, 1975: Bond taken - Receipt # XXXXX 180585, who
justified by affidavit dated, 19, [or] committed to Cook County Jail
on April 29, 1975.

SUBPOENAS FOR WITNESSES ISSUED:

_____, 19____, for (name of witness) _____
 at request of (name of party) _____
 Substance of return _____

_____, 19____, for (name of witness) _____
 at request of (name of party) _____
 Substance of return _____

_____, 19____, for (name of witness) _____
 at request of (name of party) _____
 Substance of return _____

PRELIMINARY EXAMINATION:

(Not to be used if case was disposed of at first presentation)

Date _____ Appearances for _____

United States (Name) _____
 (Address) _____
 Accused (Name) _____
 (Address) _____

WITNESSES FOR UNITED STATES: (List names and addresses)

WITNESSES FOR ACCUSED: (List names and addresses)

_____, _____
 _____, _____
 _____, _____
 _____, _____

Witness payroll containing _____ names certified to United States Marshal for payment _____, 19____
 Proceedings taken _____

Outcome _____
 Bail fixed _____, 19____ Amount, \$ _____ Bonded _____, 19____, by cash
 deposited by (name) _____ Address _____
 transmitted to clerk of district court _____, 19____
 [or] by surety (names) _____ Address _____
 and _____ Address _____
 who justified by affidavit _____, 19____ Committed to _____
 on _____, 19____

Certified to be a correct transcript.

Made this _____ 16th day of _____ May _____, 19 75-
 Transmitted to Clerk of United States District Court for the _____ Northern
 district of _____ Illinois _____, May 16 _____, 1975-

Carl B. Sussman
 Carl B. Sussman United States Magistrate.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EVERETT MC KINLEY DIRKSEN BUILDING
CHICAGO, ILLINOIS 60604

H. STUART CUNNINGHAM
CLERK

OFFICE OF THE CLERK

June 2, 1975

Clerk, U.S. Dist. Court
Southern Dist. of New York
U.S. Courthouse
Foley Square
New York, New York

Re: U.S. vs Gerald Martinez
75 M 391

Dear Sir:

Pursuant to Order of Removal entered on May 21, 1975
by ~~Judge~~ ^{Magistrate} Carl Gussman relative to the above defendant(s),
enclosed (is) (are) the following document(s): original appearance
bond in the sum of \$5,000.00 and check 4,433 representing 10% deposit of
said Bond.

Please acknowledge receipt of the above document(s) on
the enclosed copy of this letter

H. STUART CUNNINGHAM, Clerk

By: ~~Stuart Cunningham~~, Deputy Clerk
Alice Hinckson

USA-333-11

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v-

GERALDO MARTINEZ

SA
JUN 12 10 27 AM '75
SUB. H. N.Y.
M19-14253
74 Cr.

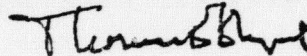
OFFICE OF THE DISTRICT ATTORNEY OF
THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK

It is hereby certified pursuant to the order
of this Court entered on the 22nd day of May, 1970,
that the bail of the defendant above named was fixed by
the Hon. Carl Sussman, U.S. Mag. in the sum (\$ 500.00)
(Northern Dist. of Illinois)
of Five Hundred ----- Dollars, for the
(as security on \$5000.00 PMS)
appearance of the said defendant before
United States District Court, SDNY when requested.

Dated: New York, New York
June 9 1975

PAUL J. CORMAN

United States Attorney for the
Southern District of New York



Thomas E. Engel
Assistant United States Attorney

Deposited by:

Gerardo Martinez
744 S. Albany
Chicago, Illinois.

GK 3509

REPORT OF INVESTIGATION

PAGE 1 OF 1

FILE TITLE MARTINEZ, Geraldo	IDENTIFIER DAL-C2	FILE NUMBER CL-74-0372 (Gp. 41)
PROGRAM CODE		

☒ ACTION REQUESTED ☐ CLOSED ☐ REQUESTED ACTION COMPLETED	OTHER OFFICERS	CROSS FILE ☐ ☐ ☐ ☐ ☐	RELATED FILES
BY Arthur Rose AT Special Agent New York, New York DATE July 9, 1975			

REPORT RE: **Status**

DETAILS:

1. On July 9, 1975, AUSA Engel, SDNY, informed Special Agent Rose that due to an extremely heavy case load, this investigation was being referred to the New York State Special Narcotics Court for prosecution. AUSA Engel further stated that he would send a copy of the letter formally referring the investigation to the Special Narcotics Court to Special Agent Rose.

REGION	SIGNATURE (Agent) <i>Arthur Rose</i> Arthur Rose, Special Agent	DATE 7/18/75
DISTRICT	APPROVED (Name and title) <i>John Maltz</i> John Maltz, Group Supervisor	
OTHER		

DEA Form - 6
(Aug. 1973)

OFFICIAL USE ONLY

Drug Enforcement Administration
Department of Justice

COPY 2

DATE: July 14, 1975

FILE NO. 75-1265

MEMORANDUM TO THE U.S. MAGISTRATE

Please dismiss the complaint in the case of
United States v.s. Geraldo Martinez on my
recommendation. Complaint filed on April 9, 1975

X

Magistrate

Thomas E Engel
ASSISTANT UNITED STATES ATTORNEY

AUSA: T. ENGEL

UNITED STATES MAGISTRATE

SOUTHERN DISTRICT OF NEW YORK

RECORD OF PROCEEDINGS—MISCELLANEOUS

BEFORE CHARLES J. HARTENSTINE
(Name of Magistrate)

U.S. MAGISTRATE S OFFICE - Foley Square
(Address)

This form should be used to record proceedings for which Forms AO 100 and AO 101 are not adapted, such as applications for search warrants, extradition proceedings, depositions in civil cases, proceedings for the release of poor convicts, references in civil or admiralty cases, attachments and subsequent hearings in internal revenue matters, proceedings to settle or certify nonpayment of seamen's wages, civil rights proceedings, detentions of witnesses on removal proceedings in connection with criminal proceedings, if not included in Form AO 100, etc. A separate page should be used for each proceeding, showing the title of the case, its nature, and the date and nature of each step taken.

Magistrate's
Docket No. 75, Case No. 546

U.S.A.

U.S.

GERALDO MARTINEZ

RULE 5 - Preliminary Proceedings

Narcotics 21 USC §812, 841(a)(1) 841(b)(1)(A)

(Nature of proceeding)

[illegible]

USA 33s - 13

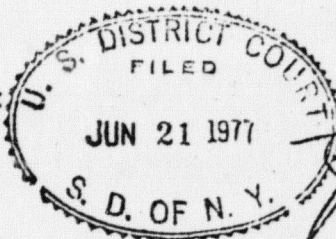
(Order for the Return of Cash Bail)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v-

GERALDO MARTINEZ



M19-1-4253

-----X

An order having heretofore been made in this case authorizing the Clerk of this Court to accept the sum of Five Hundred ----- Dollars, /as security for \$5000.00 PRB/ cash, and to deposit the same in the registry of this Court in lieu and place of bail for the appearance of the above named defendant before the United States District Court for the Southern District of New York in accordance with the provisions of the bond given by the said defendant and subsequently the complaint was dismissed by Hon. Harold J. Raby, U.S. Magistrate on July 14, 1975.

6/21/77
Mailed Ck # 14,840, dated 6/21/77,
in amt of \$500.00, payable to
Gerald Martinez to him at
Metropolitan Correctional Center,
150 Park Row, N.Y.C. J. J. J.

all
gmk.

ORDERED that the Clerk of this Court pay out of the
registry of this Court to Geraldo Martinez
the person who deposited the said sum of money, the sum
of Five Hundred ----- Dollars, (\$ 500.00)
less the Clerk's fees, if any.

Dated: June ~~18~~ 20, 19 77
 New York, N.Y.

W. A. Ray
United States District Judge

Consented to:

(Per me) 

ROBERT B. FISKE, JR.

United States Attorney for
the Southern District of N.Y.

By: Lee Richards
Assistant U.S. Attorney

REQUEST NO. 8

Admissions of the Defendant

You have heard evidence of statements made by the defendant on two different occasions concerning the sale of cocaine.

Admissions of the defendant are among the most effectual proofs in the law, and constitute the strongest evidence against the party making it that can be given of the facts stated in the admissions. Accordingly, you are entitled to give great weight to the defendant's admissions in this case.

Wilson v. United States, 162 U.S.
613, 622 (1896).

REPORT OF INVESTIGATION
(Continuation)

DATE

May 2, 1975

PAGE OF
FILE NUMBER

FILE TITLE

MARTINEZ, Geraldo

IDENTIFIER

DA4-C2

CI-74-037Z

PROGRAM CODE

LIST OF EXHIBITS

Exhibit # 1

18. 34 grams of cocaine delivered to SC1-4-0037 by Geraldo MARTINEZ in the presence of Special Agent Rodriguez on June 18, 1974.

Exhibit # 2

24. 17 grams of cocaine delivered to Special Agent Rodriguez by Geraldo MARTINEZ on July 1, 1974 for \$900.00.

LIST OF WITNESSES

SC1-4-0037

Will testify regarding the purchase of Exhibit # 1.

Special Agents

✓Juan Rodriguez

Will testify regarding the purchases of Exhibits # 1 and # 2.

John Maltz

✓Arthur Rose

Harvey Tuerack

Thomas Grieve

Bob Joura

✓George Swiekert

Will testify regarding surveillance conducted during the purchase of Exhibit # 1.

John Maltz

✓Harvey Tuerack

William Kennedy

✓Robert Ridler

Keith Logan

Thomas Grieve

Will testify regarding surveillance conducted during the purchase of Exhibit # 2.

Keith Leoni

Chrill Hacaia

Tom Chown

Charles Nardini

Will testify regarding the arrest of MARTINEZ on April 28, 1975.

OFFICIAL USE ONLY

Drug Enforcement Administration
Department of Justice

This report is the property of the Drug Enforcement Administration.
Neither it nor its contents may be disseminated outside the agency to which loaned.

CERTIFICATE OF SERVICE

November 16, 1977

I certify that a ^{proof} copy of this brief and appendix has been mailed to the United States Attorney for the Southern District of New York.

Barry Bassin